

IN THE UNITED STATES DISTRICT COURT  
FOR THE EASTERN DISTRICT OF NORTH CAROLINA  
WESTERN DIVISION  
No. 5:16-CV-144-F

JOSEPH BOONE and  
DEMETRIUS M. HOLDER, P.A.G.,

Plaintiffs,

v.

WAKE COUNTY LIBRARY and WAKE  
COUNTY SAFETY AND SECURITY,

Defendants.

**ORDER**

Pending before the court is the Memorandum and Recommendation ("M&R") [DE-6] of United States Magistrate Judge Robert B. Jones, Jr., regarding Plaintiffs' joint application to proceed *in forma pauperis* ("IFP") under 28 U.S.C. § 1915 and frivolity review of the complaint pursuant to 28 U.S.C. § 1915(e)(2)(B). Judge Jones recommends Plaintiffs' IFP application [DE 1] be denied and Plaintiffs' complaint [DE 1-1] be dismissed for failure to prosecute.

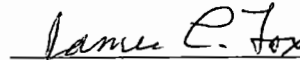
Any objections to the M&R were due within fourteen (14) days of receipt. *See* 28 U.S.C. § 636(b)(1); FED. R. CIV. P. 72(b)(2); Local Civil Rule 72.4(b). Judge Jones filed the M&R on June 17, 2016. Accordingly, Plaintiffs' written objections were due on or before July 5, 2016. *See* FED. R. CIV. P. 6(d) (adding three days for service period when service is made by mailing it to the person's last known address, as done here); FED. R. CIV. P. (a)(1)(C) (noting the last day of the period cannot be a legal holiday). To date, no objections have been filed.<sup>1</sup>

<sup>1</sup> The record indicates the copy of the M&R mailed to Joseph Boone was returned as undeliverable. Rule 83.3 of the Local Civil Rules of Practice and Procedure provides that a party "must notify the court in writing within 14 days of any change of address . . . [and] [f]ailure to notify the court in a timely manner of an address change may result in dismissal of the action or the imposition of such other relief that the court deems just and proper." Local Civil Rule 83.3. Mr. Boone failed to provide any such notification to the court.

Upon careful review of the M&R and of the record generally, having found no clear error, the court hereby ADOPTS the recommendation of the magistrate judge as its own. 28 U.S.C. § 636(b)(1) (stating "the court may accept, reject, or modify, in whole or in part, the findings or recommendations made by the magistrate judge"); *Diamond v. Colonial Life & Accident Ins. Co.*, 416 F.3d 310, 315 (4th Cir. 2005) (stating absent a specific and timely objection, the court reviews only for "clear error" and need not give any explanation for adopting the M&R). For the reasons stated therein, Plaintiffs' IFP application [DE 1] is DENIED and Plaintiffs' complaint [DE 1-1] is DISMISSED for failure to prosecute. The Clerk of Court is directed to close this case.

SO ORDERED.

This the 9th day of August, 2016.

  
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**JAMES C. FOX**  
Senior United States District Judge